

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DARWYN M. MORREN,
Plaintiff,

-v-

NEW YORK UNIVERSITY, *et al.*,
Defendants.

20-CV-10802 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

On May 25, 2022, this Court issued an order adopting a report and recommendation by Judge Ona T. Wang. (*See* Dkt. No. 80 at 3.) The order granted Defendants’ motion to dismiss Plaintiff’s amended complaint for failure to state a claim. (*See id.*) *Pro se* Plaintiff Darwyn M. Morren moves for relief from judgment under Federal Rule of Civil Procedure 60, which permits relief for “mistake, inadvertence, surprise, or excusable neglect,” on the grounds that Defendants “only filed a notice of a motion” to dismiss, not a motion to dismiss itself. (*See* Dkt. No. 81.) Plaintiff also suggests that the Court erred in concluding that Plaintiff had notice of the motion because his “ecf consent form” was only a part of his “original complaint.” (*See id.*)

Plaintiff’s arguments are meritless. Reconsideration is denied “unless the moving party can point to controlling decisions or data that the court overlooked.” *Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir. 1995). In this district, a notice of motion to dismiss serves as a motion to dismiss the operative complaint, *see* Loc. R. 7.1, and the form consenting to notification through ECF “appl[ies] to all cases . . . filed in this court.” (*See* Dkt. No. 3.) Amending a complaint does not serve to withdraw that consent.

Accordingly, Plaintiff’s motion for relief from judgment is DENIED.

SO ORDERED.

Dated: June 28, 2022
New York, New York



J. PAUL OETKEN
United States District Judge